

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

OFF-WHITE LLC,

Plaintiff,

-v-

AONISI, *et al.*,

Defendants.

22 Civ. 2871 (PAE)

ORDER

PAUL A. ENGELMAYER, District Judge:

On April 7, 2022, plaintiff Off-White LLC (“Off-White”) filed a sealed Complaint, which alleges federal trademark counterfeiting; federal infringement of registered and unregistered trademarks; federal false designation of origin, passing off and unfair competition; and unfair competition under New York common law against Aonisi and 40 other merchants on the Amazon.com online marketplace platforms (the “defendants”). Dkt. 2, Dkt. 10 (unsealed). That same day, Off-White filed a proposed temporary restraining order (“TRO”), a memorandum of law, and supporting declaration and exhibits. *See* Dkts. 13–16. That same day, the Court granted the TRO, authorizing Off-White, *inter alia*, to serve each defendant by alternative means, and ordered defendants to show cause before this Court on April 20, 2022 why a preliminary injunction should not issue. *See* Dkt. 17 (discussing the same). On April 13, 2022, Off-White notified the Court that defendants had requested additional time to review and comply with the TRO and requested an extension of the TRO and adjournment of the Show Cause Hearing. Dkt. 17. Later that day, the Court denied the request to adjourn the show cause hearing and stated it would entertain Off-White’s TRO extension request at the April 20 hearing. *Id.*

On April 19, 2022, Off-White served all defendants with process pursuant to the alternative means of service authorized in the revised TRO, making each defendant's deadline to answer or otherwise respond May 12, 2021. Dkt. 19; Fed. R. Civ. P. 12(a). On April 20, 2022, the Court issued a revised TRO authorizing Off-White, *inter alia*, to serve each defendant by alternative means, and ordering defendants to show cause before this Court on May 4, 2022 as to why a preliminary injunction should not issue. *See* Dkt. 18. On May 4, 2022, the Court held the show-cause hearing, at which all defendants failed to appear. The Court accordingly converted the TRO into a preliminary injunction. *See* Dkt. 6.

On May 9, 2022, Off-White served all defendants with the preliminary injunction pursuant to the alternative means of service authorized in the TRO. Dkt. 20. No defendant responded to the Complaint or otherwise appeared in this action. On June 29, 2022, Off-White requested leave to move for default judgment. Dkt. 23. On June 30, 2022, the granted Off-White's request. Dkt. 24. But Off-White did not so move.

On August 26, 2022, Off-White gave notice of its voluntary dismissal, pursuant to Rule 41, of its claims against defendant Zheng's store. Dkt. 25. On August 30, 2022, the Court approved the voluntary dismissal. Dkt. 26.

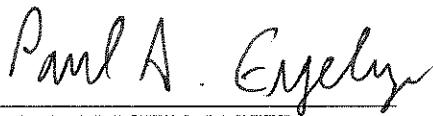
On October 3, 2022, the Court issued an order to show cause as to why the case should not be dismissed for failure to prosecute, pursuant to Rule 41. Dkt. 27. On October 11, 2022, Off-White filed for entry of default as to all defendants with the Clerk of Court. Dkt. 30–31 (amending Dkts. 28–29). Also on October 11, 2022, the Clerk of Court issued certificates of default as to all defendants, Dkt. 32, and Off-White moved for default judgment against all defendants, a memorandum of law, affidavit, and exhibits in support, and a proposed order of default judgment, Dkts. 33–36.

On October 28, 2022, the Court ordered any defendant wishing to oppose the motion, by November 14, 2022, to show cause why a default judgment is not warranted. Dkt. 37. On November 2, 2022, Off-White served the November 2, 2022 order to show cause on defendants. Dkt. 38.

The Court has reviewed Off-White's motion for default judgment pursuant to Federal Rule of Civil Procedure 55(b) and supporting affidavit and submissions. Dkts. 33–36. Because proof of service has been filed, each defendant has failed to answer the Complaint, the time for answering the Complaint has expired, and each defendant has failed to appear to contest the entry of a default judgment, the Court enters a default judgment for Off-White against all remaining defendants.

The Court will refer the case, by separate order, to Judge Moses for a damages inquest. Off-White shall serve this Order upon each defendant and file an affidavit reflecting such service on the docket by December 13, 2022. The Clerk of Court is respectfully directed to close the motion pending at docket 33.

SO ORDERED.

  
PAUL A. ENGELMAYER  
United States District Judge

Dated: December 5, 2022  
New York, New York